

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No. 1126 of 2016

Order:

The petitioners herein are claiming to be the legal representatives of the deceased sole plaintiff in OS No.74 of 2007 on the file of the Junior Civil Judge, Narayanpet, Mahaboobnagar District. The original plaintiff filed the suit for perpetual injunction in respect of the schedule property mentioned therein. When the suit was pending, the sole plaintiff died on 04.10.2014. In those circumstances, the petitioners filed IA No.49 of 2015 to condone the delay in filing the petition to set aside the abatement, to set aside the abatement and to bring the legal representatives on record. When the learned Junior Civil Judge, Narayanpet, by an order dated 27.01.2016, dismissed IA No.49 of 2015 filed for condoning the delay of 44 days in filing the petition for setting aside the abatement, the present Civil Revision Petition is filed.

2. A perusal of the order dated 27.01.2016 passed by the learned Junior Civil Judge, Narayanpet, shows that the reason assigned by the petitioner that she was not aware of the proceedings was found to be contrary to the record, as she deposed as PW.1 in the case and she was also cross-examined. In the absence of any sufficient cause the application of the petitioners was dismissed.

3. The learned Judge should have seen that the present application is filed seeking condonation of delay in filing the petition to set aside the abatement order and he should have considered liberally as valuable rights of the plaintiffs would be defeated by taking a too technical view of the matter in considering the application for bringing the legal representatives on record. The application for bringing the legal representatives on record will not decide the rights of the parties *inter se*, but is meant for only continuation of the proceedings before the Civil Court.

4. In that view of the matter, without expressing any views on the right of the parties over the property claimed by the original deceased plaintiff, this Court is inclined to allow IA No.49 of 2015 for limited purpose of filing the application for setting aside the abatement caused by the death of the original plaintiff. Though the learned counsel for the respondents was served, none represented the matter when the case is taken up for consideration.

5. In view of the same, the Civil Revision Petition is allowed and the application in IA No.49 of 2015 is allowed by setting aside the order dated 27.01.2016 passed by the learned Junior Civil Judge, Narayanpet. However, in the circumstances, no costs.

6. As a sequel thereto, the miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.
Date: 13.04.2016
Nsr

RAMALINGESWARA RAO, J